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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200183
Party	Defendant Miss G-String International LLC
Correspondence Address	LUKE LIROT LUKE CHARLES LIROT PA 2240 BELLEAIR ROAD, SUITE 190 CLEARWATER, FL 33764 UNITED STATES luke2@lirotlaw.com, jimmy@lirotlaw.com, krista@lirotlaw.com
Submission	Motion for Summary Judgment
Filer's Name	Luke Lirot
Filer's e-mail	luke2@lirotlaw.com, jimmy@lirotlaw.com, krista@lirotlaw.com
Signature	/s/Luke Lirot
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE WORLDS PAGEANTS, LLC and	)	Opposition No. 91,200,183
Camilla Productions, Ltd.	)	
Opposers,	)	
	)	
	)	For: "MISS G-STRING
	)	INTERNATIONAL"
v.	)	
	)	
	)	
MISS G-STRING INTERNATIONAL LLC,	)	No. 77/753,000
Applicant.	)	Published: December 7, 2010

COMMISSIONER OF TRADEMARKS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**APPLICANT'S FIRST AMENDED MOTION FOR SUMMARY JUDGMENT AND  
SUPPORTING MEMORANDUM OF LAW**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Applicant, Miss G-String International, LLC ("Applicant") hereby files this First Amended Motion for Summary Judgment, and moves for summary judgment on the Oppositions filed by Opposers, The Worlds Pageants, LLC, and Camilla Productions, Ltd. (collectively, the "Opposers"), because, as a matter of law and fact, the Opposers do not have standing to oppose the registration of the marks in question or, assuming *arguendo* that Opposers do have standing, there is no likelihood of confusion between Applicant's marks and Opposer's cited marks, or a potential for dilution by tarnishment or blurring. Applicant's motion for summary judgment is timely pursuant to 37

C.F.R. § 2.127(e)(1). Applicant respectfully submits the following memorandum of law in support of its motion for summary judgment.

Applicant respectfully seeks an order from the Trademark Trial and Appeal Board (the “Board”) entering judgment against Opposer, dismissing the notices of Opposition dated, June 6, 2011, (the “Notice of Opposition”) and approving Applicant’s marks filed under Serial No. 77/753,000 (“Applicant’s Application”) for registration.

## **II. STATEMENT OF MATERIAL UNDISPUTED FACTS**

### **A. Opposers**

Opposers are limited liability companies, created for the purpose of putting on nude beauty pageants. In order to promote their pageants, Opposers assert that they have adopted certain trademarks. Opposers assert that they are the owner of the following federal trademark registrations:

<b>Mark</b>	<b>Class</b>	<b>Services</b>	<b>Serial/ Registration No.</b>
MISS NUDE UNIVERSE	41	Entertainment	76/135129
MISS NUDE SOUTHERN USA	41	Entertainment	78/109613
MISS EXOTIC DANCER USA	41	Entertainment	78/113024
MISS NUDE USA	41	Entertainment	78/109630
MISS EROTIC	41	Entertainment	2666658
MISS EXOTIC	41	Entertainment	2096819
AMERICAN CENTERFOLD SEARCH	41	Entertainment	2724191
NORTH AMERICAN CENTERFOLD SEARCH	41	Entertainment	2879086
MISS EXOTIC GULF COAST	41	Entertainment	2709433
MISS NUDE WORLD	41	Entertainment	3039826

MISS NUDE WORLD INTERNATIONAL	41	Entertainment	2282958
MISS NUDE INTERNATIONAL	41	Entertainment	2037202

Although Opposers provide entertainment services in the nature of beauty pageants, Opposers pageants focus on the main feature of being nude and are geared towards a specific group of adults and the adult entertainment industry. In contrast, Applicant's pageants are not nude and are geared towards the general public at large. Note that the mark MISS NUDE INTERNATIONAL had to disclaim NUDE and INTERNATIONAL, so the only language at issue would be "MISS," and the impact it would have on "G-STRING" as a point of difference. Opposers have no exclusive right to use the terms "Nude" or "International."

#### **B. Applicant**

Applicant is in the pageant business. Unlike Opposer, however, Applicant's pageants are geared towards the community as a whole, and not a select group of people interested in nudity. Applicant's services identified under Class 41, are currently distributed, and/or presented, throughout the United States.

#### **C. Procedural History**

On June 5, 2009, Applicant filed its trademark application for the MISS G-STRING INTERNATIONAL mark. Applicant's trademark application was published for opposition by the USPTO on December 7, 2010. A Notice of Opposition was issued by the Board on June 6, 2011. In the Notice of Opposition, Opposers request that Applicant's Application be denied registration on the grounds that Applicant's Miss G-String International mark is allegedly likely to cause confusion, mistake or deception, or to cause dilution by blurring or tarnishment of the marks Opposers attest to own. Accordingly, the issues for the Board's determination are (i) the standing of Opposers to challenge the registration of Applicant's

mark, (ii) the likelihood of confusion between Applicant's mark and Opposers' alleged marks, and (iii) dilution by blurring or tarnishment with respect to Opposers' alleged marks.

**D. Facts Supporting Summary Judgment in Favor of Applicant**

**i. The Opposers have failed to establish their ownership of the opposition trademarks and consequently do not have standing to oppose.**

1. On June 6, 2011, OPPOSER filed its NOTICE OF OPPOSITION to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark, attesting to be the assignee of the MISS NUDE INTERNATIONAL mark.

2. However, the Trademark Assignment Abstract of Title ("TAAT") identifies Brava Enterprises, Inc. ("BRAVA") not OPPOSER, as the owner of record for the MISS NUDE INTERNATIONAL mark on the date of filing the opposition. (TAAT Reel/Frame: 2774/0589)

3. OPPOSER was not the lawful owner of the MISS NUDE INTERNATIONAL mark when it filed its opposition with the Office as OPPOSER establishes that an executed assignment document did not exist on June 6, 2011. Therefore, OPPOSER could not provide documentary evidence of a chain of title from the original owner to OPPOSER as assignee (e.g., copy of an executed assignment), and, therefore OPPOSER could not provide a statement specifying where documentary evidence of a chain of title from the original owner to OPPOSER as assignee is recorded in the assignment records of the Office (e.g., reel and frame number), in compliance with 37 C.F.R. 3.73(b).

4. More than three (3) months AFTER OPPOSER filed its NOTICE OF OPPOSITION with the Office, OPPOSER contemporaneously executed and filed two (2) *nunc pro tunc* trademark assignment documents on September 27, 2011, in an attempt to authenticate OPPOSER as the lawful owner of the mark. The TAAT does not identify any assignments to OPPOSER before September 27, 2011. (TAAT Reel/Frame: 4631/0418).

5. On August 21, 2012, the Board ordered, “the copies of opposer’s assignment documents that opposer filed with the Board on September 27, 2011, will receive no consideration.”

6. OPPOSER claimed to be the legal owner of the MISS NUDE INTERNATIONAL mark on the date of filing its NOTICE OF OPPOSITION, however, the records of the TAAT identify BRAVA, not OPPOSER as the owner of record, thus failing to establish its ownership of the mark by establishing a chain of title from the original owner to OPPOSER as assignee. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office. OPPOSER was not the lawful owner of the MISS NUDE INTERNATIONAL mark at the time it filed its NOTICE OF OPPOSITION and does not have standing to oppose the registration of APPLICANT’S MISS G-STRING INTERNATIONAL mark.

**ii. The *nunc pro tunc* trademark assignment documents**

7. The first *nunc pro tunc* trademark assignment document identifies R&D Promotions, Inc. (“R&D”) as assignor and Gracinda Cardoso (“CARDOSO”) an individual, as assignee, purportedly effective on March 31, 2003. The second *nunc pro tunc* trademark assignment document more than six (6) years later, identifies CARDOSO as assignor and OPPOSER as assignee, purportedly effective on May 6, 2009, both executed and filed on September 27, 2011.

8. However, the TAAT identifies BRAVA, not OPPOSER, as the owner of record for the MISS NUDE INTERNATIONAL mark on September 27, 2011, the execution date of both assignment documents. (TAAT Reel/Frame: 2774/0589).

9. Further, OPPOSER identifies R&D as the assignee in the first assignment document. The records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated. The Florida Department of State, Division of Corporations provides a time for reinstatement past the date of dissolution,

after which time the name becomes available for reuse. R&D is prohibited from reinstatement as the reinstatement period expired and the name was issued to a new owner. (Exhibit A).

10. As the TAAT identifies BRAVA, not OPPOSER, as the lawful owner of the MISS NUDE INTERNATIONAL mark on September 27, 2011, and the first *nunc pro tunc* trademark assignment document was executed by R&D as assignor on September 27, 2011, more than six (6) years AFTER R&D was administratively dissolved and never reinstated. The second *nunc pro tunc* trademark assignment document shares these procedural and temporal characteristics.

11. The MISS NUDE INTERNATIONAL mark was never transferred from R&D as assignor to CARDOSO as assignee in the first assignment document, nor from CARDOSO as assignor to OPPOSER as assignee in the second assignment document. Therefore, OPPOSER can not establish a chain of title from the original owner to OPPOSER as assignee.

12. The U.S. Serial No. 76/135129 for the MISS NUDE UNIVERSE mark, the U.S. Serial No. 78/109613 for the MISS NUDE SOUTHERN USA mark, and the U.S. Serial No. 78/113024 for the MISS EXOTIC DANCER USA mark are collectively included in the purported transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document effective March 31, 2003.

13. On September 21, 2004, R&D as the lawful owner and assignor of the mark, not CARDOSO, assigned the MISS NUDE UNIVERSE mark, the MISS NUDE SOUTHERN USA mark, and the MISS EXOTIC DANCER USA mark to assignee, Donald Trump's Miss Universe L.P., LLLP. The TAAT shows these transfers and identifies R&D, not CARDOSO, as the owner of record for the marks on September 21, 2004. (Reel/Frame: 2947/0229).

14. The inclusion of the MISS NUDE UNIVERSE mark, the MISS NUDE SOUTHERN USA mark and the MISS EXOTIC DANCER USA mark and their transfer from R&D to

CARDOSO in the first assignment document, purported to have been retroactively transferred on March 31, 2003, eighteen (18) months BEFORE the transfer of the marks from R&D to Donald Trump's Miss Universe L.P., LLLP, is factually and temporally impossible.

15. Consequently, OPPOSER failed to establish a chain of title for the MISS NUDE UNIVERSE mark, the MISS NUDE SOUTHERN USA mark and the MISS EXOTIC DANCER USA mark from the original owner to OPPOSER. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office. OPPOSER was not the lawful owner of the MISS NUDE UNIVERSE mark, the MISS NUDE SOUTHERN USA mark and the MISS EXOTIC DANCER USA mark at the time it filed its NOTICE OF OPPOSITION and does not have standing to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark.

16. The U.S. Serial No. 78/109630 for the MISS NUDE USA mark is included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective March 31, 2003, executed on and filed with the USPTO on September 27, 2011. The Trademark Electronic Search System ("TESS") identifies R&D, not CARDOSO, as the owner of record for the MISS NUDE USA mark on its abandonment date of January 17, 2003.

17. The inclusion of the MISS NUDE USA mark and its transfer from R&D to CARDOSO in the first assignment document, purported to have been retroactively transferred on March 31, 2003, two (2) months AFTER its abandonment date of January 17, 2003, is factually false. These irrefutable facts disallow the MISS NUDE USA mark from inclusion in the first assignment document as the transfer is thereby invalid. Consequently, OPPOSER failed to establish a chain of title for the MISS NUDE USA mark from the original owner to OPPOSER. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office.

OPPOSER was not the lawful owner of the MISS NUDE USA mark at the time it filed its NOTICE OF OPPOSITION and does not have standing to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark.

18. The U.S. Registration No. 2666658 for the MISS EROTIC mark is included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective March 31, 2003. It is also included in the transfer from CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective May 6, 2009.

19. The TAAT shows that the MISS EROTIC mark was recorded by R&D on December 24, 2002. The TAAT next identifies CARDOSO as assignee of the MISS EROTIC mark by conveyance of the first assignment document on September 27, 2011. (Reel/Frame: 4631/0418)

20. OPPOSER identifies R&D as assignor of the MISS EROTIC mark in the first assignment document executed by R&D on September 27, 2011. The records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated. (Exhibit A).

21. The inclusion of the MISS EROTIC mark and its purported transfer from R&D to CARDOSO in the first assignment document executed by R&D as assignor on September 27, 2011, more than six (6) years AFTER R&D was administratively dissolved, never reinstated and lawfully prohibited from executing the assignment document, is factually false, and thereby invalid. As the inclusion of the MISS EROTIC mark and its transfer from R&D to CARDOSO in the first assignment document is invalid, then the inclusion of the MISS EROTIC mark and its transfer from CARDOSO to OPPOSER in the second assignment document is likewise invalid.

22. These irrefutable facts disallow the MISS EROTIC mark from inclusion in the first and second assignment documents as the transfers are invalid. Consequently, OPPOSER failed to establish a chain of title for the MISS EROTIC mark from the original owner to OPPOSER as assignee.

23. The U.S. Registration No. 2096819 for the MISS EXOTIC mark is included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective March 31, 2003. It is also included in the transfer from CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective May 6, 2009.

24. On September 28, 2007, R&D attested to be the lawful owner of the MISS EXOTIC mark and filed its first renewal with the USPTO. It is important to note that OPPOSER identifies R&D as assignor which transferred the MISS EXOTIC mark from R&D to CARDOSO in the first assignment document and executed by R&D on September 27, 2011. The records of the Florida Department of State, Division of Corporation show that R&D was administratively dissolved on September 16, 2005, and never reinstated.

25. However, the TAAT fails to identify R&D or CARDOSO as the lawful owner of the mark on March 31, 2003, the purported effective date of the first assignment document, or on September 28, 2007, the date of the first renewal of the MISS EXOTIC mark, or on September 27, 2011, the execution date of the assignment documents.

26. The TAAT identifies that BRAVA became the assignee of the MISS EXOTIC mark from Huggy Bear Productions, Inc. on February 10, 2003, and recorded as the owner of record on the TAAT on January 7, 2004. (Reel/Frame: 2774/0589).

27. Further, the TAAT does not identify an assignment of the MISS EXOTIC mark from BRAVA to R&D, which would have occurred between February 10, 2003, the date BRAVA became the assignee of the mark, and March 31, 2003, the purported effective date of the first assignment document.

28. The inclusion of the MISS EXOTIC mark and its purported transfer from assignor R&D to assignee CARDOSO in the first trademark assignment document effective on March 31, 2003, conflicts with the TAAT which (i) identifies that BRAVA became the lawful owner of the MISS EXOTIC mark on February 10, 2003, forty-nine (49) days BEFORE the purported effective date of March 31, 2003, of the first assignment document, next BRAVA was (ii) recorded on the TAAT as the owner of record for the mark on January 7, 2004, nine (9) months AFTER the purported effective date of March 31, 2003, of the first assignment document which OPPOSER (iii) caused to be executed by R&D eight (8) years LATER on September, 27, 2011, which was (iv) six (6) years AFTER R&D was administratively dissolved on September 16, 2005, never reinstated and lawfully prohibited from executing the first renewal document and (v) four and a half (4.5) years AFTER R&D, not BRAVA or CARDOSO, filed the first renewal of the MISS EXOTIC mark on September 28, 2007, is factually false, and thereby invalid.

29. As the inclusion of the MISS EXOTIC mark and its transfer from R&D to CARDOSO in the first assignment document is invalid, then the inclusion of the MISS EXOTIC mark and its transfer from CARDOSO to OPPOSER in the second assignment document is likewise invalid. These irrefutable facts disallow the MISS EXOTIC mark from inclusion in the first and second assignment documents as the transfers are counterfactual, and thereby invalid. Consequently, OPPOSER failed to establish a chain of title for the MISS EXOTIC mark from the original owner to OPPOSER. OPPOSER thus cannot assert ownership to rely upon at trial at the time of

filing its opposition with the Office. OPPOSER was not the lawful owner of the MISS EXOTIC mark, and does not have standing to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark.

30. The U.S. Serial No. 78/109618 for the AMERICAN CENTERFOLD SEARCH mark, the U.S. Serial No. 78/109622 for the NORTH AMERICAN CENTERFOLD SEARCH mark, the U.S. Serial No. 78/110754 for the MISS EXOTIC GULF COAST mark and the U.S. Serial No. 78/110759 for the MISS NUDE WORLD mark are included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective on March 31, 2003. They are also included in the transfer from CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective on May 6, 2009.

31. The TAAT identifies the AMERICAN CENTERFOLD SEARCH mark was first recorded by R&D on June 10, 2003, the NORTH AMERICAN CENTERFOLD SEARCH mark was first recorded by R&D on August 31, 2004, the MISS EXOTIC GULF COAST mark was first recorded by R&D on April 22, 2003, and the MISS NUDE WORLD mark was first recorded by R&D on January 10, 2006.

32. The TAAT further identifies OPPOSER as the purported assignee of the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark by conveyance of the first and second *nunc pro tunc* trademark assignment documents executed on September 27, 2011. (Reel/Frame: 4631/0436).

33. However, the records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated.

34. The inclusion of the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark and their purported transfer from R&D to CARDOSO in the first assignment document executed by R&D on September 27, 2011, more than six (6) years AFTER R&D was administratively dissolved, never reinstated, thus making any document purporting to effect any “assignment” void or voidable.

35. As the inclusion of the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark and their transfer from R&D to CARDOSO in the first assignment document, purported to have been retroactively transferred on March 31, 2003, is invalid, then the inclusion of the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark and their transfer from CARDOSA to OPPOSER in the second assignment document is likewise invalid.

36. These irrefutable facts disallow the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark from inclusion in the first and second assignment documents as the transfers are counterfactual, and thereby invalid. Consequently, OPPOSER failed to establish a chain of title for the AMERICAN CENTERFOLD SEARCH mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark from the original owner to OPPOSER. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office. OPPOSER was not the lawful owner of the AMERICAN CENTERFOLD SEARCH

mark, the NORTH AMERICAN CENTERFOLD SEARCH mark, the MISS EXOTIC GULF COAST mark and the MISS NUDE WORLD mark at the time it filed its NOTICE OF OPPOSITION and does not have standing to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark.

37. The U.S. Registration No. 2282958 for the MISS NUDE WORLD INTERNATIONAL mark is included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective March 31, 2003. It is also included in the transfer from CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective on May 6, 2009.

38. The TAAT identifies the MISS NUDE WORLD INTERNATIONAL mark recorded by R&D on February 22, 2002. The TAAT also identifies CARDOSO as assignee of the MISS EXOTIC GULF COAST mark by conveyance of the first assignment document on September 27, 2011. (Reel/Frame: 4631/0418).

39. It is important to note that OPPOSER identifies R&D as the assignor of the MISS NUDE WORLD INTERNATIONAL mark in the first assignment document executed by R&D on September 27, 2011.

40. However, the TESS identify that the MISS NUDE WORLD INTERNATIONAL mark has an abandonment date of May 13, 2004, and a cancellation date of May 24, 2004. Further, the records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated.

41. The inclusion of the MISS NUDE WORLD INTERNATIONAL mark and its purported transfer from R&D to CARDOSO in the first assignment document executed by R&D as assignor on September 27, 2011, more than six (6) years AFTER R&D was administratively

dissolved, never reinstated and lawfully prohibited from executing the assignment document and purportedly transferred from CARDOSO to OPPOSER the second assignment document on May 6, 2009, more than five (5) years AFTER its cancellation date of May 24, 2004, is factually false, and thereby invalid.

42. As the inclusion of the MISS NUDE WORLD INTERNATIONAL mark and its transfer from R&D to CARDOSO in the first assignment document, purported to have been retroactively transferred March 31, 2003, is invalid, then the inclusion of the MISS NUDE WORLD INTERNATIONAL mark and its transfer from CARDOSA to OPPOSER in the second assignment document is likewise invalid.

43. These irrefutable facts disallow the MISS NUDE WORLD INTERNATIONAL mark from inclusion in the first and second assignment documents as the transfers are counterfactual, and thereby invalid. Consequently, OPPOSER failed to establish a chain of title for the MISS NUDE WORLD INTERNATIONAL mark from the original owner to OPPOSER. OPPOSER was not the lawful owner of the MISS NUDE WORLD INTERNATIONAL mark at the time it filed its NOTICE OF OPPOSITION. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office, and does not have standing to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark.

44. The U.S. Registration No. 2037202 for the MISS NUDE INTERNATIONAL mark is included in the transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document purportedly effective on March 31, 2003. It is also included in the transfer from CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective on May 6, 2009.

45. OPPOSER must establish a chain of title from the original owner to OPPOSER as assignee of the MISS NUDE INTERNATIONAL mark to rely upon at trial at the time of filing its opposition with the Office.

46. It is important to note that four (4) separate events are included for the MISS NUDE INTERNATIONAL mark which occurred on four (4) different dates over a period of seven (7) years.

47. FIRST, on January 22, 2004, R&D entered into a contract to borrow money in the amount of \$20,000 from Brian Bell ("BELL"), an individual. A condition of the loan agreement mandated the pledge of all assets of R&D, including the MISS NUDE INTERNATIONAL mark. OPPOSER admits that the trademarks issued to R&D by the USPTO are corporate assets. (Exhibit B).

48. OPPOSER admits that R&D never repaid the loan to BELL and further admits that on April 1, 2005, The Circuit Court for the Sixth Judicial Circuit In and For Pinellas County, Florida awarded BELL a judgment against R&D in the amount of \$25,790.96. (Exhibit C).

49. The TAAT fails to identify R&D or CARDOSO as the lawful owner of the MISS NUDE INTERNATIONAL mark on the execution date of the loan agreement, January 22, 2004. The TAAT identifies BRAVA as the owner of record of the MISS NUDE INTERNATIONAL mark with a recordation date of January 7, 2004. (Reel/Frame: 2774/0589).

50. BRAVA was recorded as the owner of record of the MISS NUDE INTERNATIONAL mark on the TAAT on January 7, 2004, fifteen (15) days BEFORE R&D executed the loan agreement and received funding from BELL. The TAAT does not identify an assignment of the MISS NUDE INTERNATIONAL mark from BRAVA to R&D which would have occurred between February 10, 2003, the date BRAVA became the lawful owner of the MISS NUDE

INTERNATIONAL mark and March 31, 2003, the purported effective date of the first assignment document.

51. Additionally, OPPOSER identifies R&D as the assignor of the MISS NUDE INTERNATIONAL mark in the first *nunc pro tunc* trademark assignment document executed by R&D on September 27, 2011. The records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated.

52. The inclusion of the MISS NUDE INTERNATIONAL mark and its transfer from R&D to CARDOSO in the first *nunc pro tunc* trademark assignment document effective on March 31, 2003, purportedly occurred (i) nine (9) months BEFORE the loan agreement execution date by R&D and BELL on January 22, 2004, (ii) two (2) years BEFORE The Circuit Court for the Sixth Judicial Circuit In and For Pinellas County, Florida awarded BELL a judgment against R&D, (iii) nine (9) months BEFORE the TAAT identifies Brava, not R&D, as the owner of record for the MISS NUDE INTERNATIONAL mark on January 7, 2004, and (iv) more than six (6) years AFTER R&D was administratively dissolved, never reinstated and lawfully prohibited from executing the assignment document on September 27, 2011.

53. SECOND, on April 16, 2007, R&D filed the first renewal of the MISS NUDE INTERNATIONAL mark with the USPTO.

54. The TAAT identifies that BRAVA became the lawful owner of the MISS NUDE INTERNATIONAL mark on February 10, 2003. BRAVA was (i) recorded as owner of record of the MISS NUDE INTERNATIONAL mark on the TAAT on January 7, 2004, three (3) years BEFORE R&D, not BRAVA, (ii) filed the first renewal of the MISS NUDE INTERNATIONAL mark with the USPTO on April 16, 2007, and seven (7) years AFTER OPPOSER, not BRAVA,

(iii) caused the first assignment document to be executed and filed with the USPTO on September 27, 2011. R&D, (iv) filed the first renewal of the MISS NUDE INTERNATIONAL mark on April 16, 2007, eighteen (18) months AFTER R&D was administratively dissolved on September 16, 2005, never reinstated and lawfully prohibited from executing the first renewal of the MISS NUDE INTERNATIONAL mark on April 16, 2007, which (v) occurred four years AFTER CARDOSO, became assignee of the MISS NUDE INTERNATIONAL mark in first assignment document, purportedly effective on March 31, 2003, is factually false.

55. THIRD, OPPOSER admits that on May 13, 2009, AQUILLA sent a “demand to cease and desist” letter to APPLICANT’S Attorney in which AQUILLA attests that R&D, not OPPOSER, is the lawful owner of the MISS NUDE INTERNATIONAL mark on May 13, 2009. Notably, this letter is dated one (1) week AFTER OPPOSER, not R&D, claims the MISS NUDE INTERNATIONAL mark was retroactively transferred for CARDOSO to OPPOSER in the second *nunc pro tunc* trademark assignment document purportedly effective on May 6, 2009. (Exhibit D).

56. However, the TAAT identifies BRAVA as the owner of record for the MISS NUDE INTERNATIONAL mark on May 13, 2009, the date of AQUILLA’S letter to APPLICANT’S Attorney, not R&D, CARDOSO or OPPOSER. (Reel/Frame: 2774/0589).

57. Additionally, the records of the Florida Department of State, Division of Corporations show that R&D was administratively dissolved on September 16, 2005, and never reinstated.

58. The first assignment document which purportedly transfers the MISS NUDE INTERNATIONAL mark from R&D to CARDOSO effective on March 31, 2003, occurred (i) six (6) years BEFORE AQUILLA’S letter to APPLICANT’S attorney identifying R&D, not CARDOSO or OPPOSER, as the lawful owner of the MISS NUDE INTERNATIONAL mark on

May 13, 2009, (ii) three and a half (3 1/2) years AFTER R&D was administratively dissolved, never reinstated, and lawfully prohibited from executing the first assignment document on September 27, 2011, (iii) one (1) week AFTER the purported effective date of the second assignment document on May 6, 2009, and almost five (5) years AFTER BRAVA was recorded as the lawful owner of the MISS NUDE INTERNATIONAL mark on the TAAT on January 7, 2004, is factually false.

59. FOURTH, on October 6, 2011, AQUILLA sent a second letter, this time to *The Attorney Discipline Office of the New Hampshire Bar Association* in which AQUILLA *reaffirms* that R&D, *not OPPOSER*, is the lawful owner of the MISS NUDE INTERNATIONAL mark on May 13, 2009, as he attested in his first letter to APPLICANT'S Attorney. AQUILLA reaffirms R&D, not OPPOSER, as the lawful owner of the mark on May 13, 2011, by writing in his second letter "*The statements made in my letter to Eadie dated May 13, 2009, are true and correct...*". (Exhibit E).

60. AQUILLA'S first letter to APPLICANT'S Attorney in which he attests that R&D, not OPPOSER, is the lawful owner of the MISS NUDE INTERNATIONAL mark (i) was dated May 13, 2009, *exactly one (1) week AFTER HIS* second assignment document's effective date of May 6, 2009, which purportedly transferred the mark to OPPOSER, and his second letter to the *The Attorney Discipline Office of the New Hampshire Bar Association* in which AQUILLA reaffirms R&D, *not OPPOSER*, as the lawful owner of the MISS NUDE INTERNATIONAL mark was dated on October 6, 2011, *nine (9) days AFTER* AQUILLA caused both of *HIS* assignment documents to be executed on September 27, 2011, is factually false.

61. These irrefutable facts disallow the MISS NUDE INTERNATIONAL mark from inclusion in the first and second assignment documents as the transfers are counterfactual, and thereby invalid.

62. It is important to note that AQUILLA'S second letter to *The Attorney Discipline Office of the New Hampshire Bar Association* in which AQUILLA reaffirms R&D, *not OPPOSER*, as the lawful owner for the MISS NUDE INTERNATIONAL mark, is dated October 6, 2011, exactly four (4) months AFTER AQUILLA conflictingly filed the NOTICE OF OPPOSITION on behalf of OPPOSER to oppose the registration of APPLICANT'S MISS G-STRING INTERNATIONAL mark on June 6, 2011.

63. Consequently, OPPOSER failed to establish a chain of title for the MISS NUDE INTERNATIONAL mark from the original owner to OPPOSER as assignee. OPPOSER thus cannot assert ownership to rely upon at trial at the time of filing its opposition with the Office.

### **III. MEMORANDUM OF LAW IN SUPPORT OF APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

#### **A. Legal Standard**

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); see TBMP § 578.01. Summary judgment encourages the speedy resolution of cases, including trademark disputes. *Sweats Fashions, Inc. v. Pannill Knitting Co.*, 833 F.2d 1560, 4 USPQ2d 1793, 1795 (Fed. Cir. 1987) (holding that summary judgment is "a salutary method of disposition" for trademark oppositions and cancellations).

Rule 56(c) mandates the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element that is essential to that party's case. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1987).

Standing is an essential element that a party must prove in order to survive a motion for summary judgment. *L.C. Licensing Inc. v. Berman*, 86 USPQ2d 1883, 1891-92 (TTAB, 2008). The non-moving party cannot properly respond merely by pointing to allegations or denial in its pleadings, but "must set forth specific facts showing there is a genuine issue for trial." Fed. R. Civ. P. 56(e). In appropriate cases, the Trademark Trial and Appeal Board does not hesitate to dispose of cases on summary judgment. *Milliken & Company v. Image Indus., Inc.*, 39 USPQ2d 1192, 1996 (TTAB, 1996).

**B. THE OPPOSER FAILED TO ESTABLISH ITS OWNERSHIP OF THE TRADEMARK USED AS THE BASIS FOR OPPOSITION AND CONSEQUENTLY DOES NOT HAVE STANDING TO OPPOSE**

In the case at hand, the OPPOSER lacks the requisite standing. Standing is an initial question for a Plaintiff or Opposer in a trademark case. "To establish standing, the plaintiff must demonstrate that it has a "real interest," i.e. a direct and personal stake, in the outcome of the proceeding and a reasonable basis for its belief of damage." *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025-26 (Fed. Cir. 1999).

The OPPOSER does not have a real interest, the OPPOSER is not the lawful, legal, owner of the marks that are the subject of this litigation. Furthermore, this Board has found that, "a party cannot gain standing by asserting the rights of unrelated third parties." *Nettadoz Enterprises v. Cintron Beverage Group, LLC*, 2013 WL 3168082 (Trademark Tr. & App. Bd., March 29, 2013). The undisputed facts show that a third party entity and not OPPOSER may

have rights in this action; however OPPOSER cannot assert those rights in an attempt to gain standing.

**C. THE TRADEMARKS ARE NOT CONFUSINGLY SIMILAR**

There is no likelihood of confusion between APPLICANT'S MISS G-STRING INTERNATIONAL mark and OPPOSER'S MISS NUDE INTERNATIONAL mark in terms of connotation, appearance and/or pronunciation. The mark sought to be registered by APPLICANT is not likely to cause confusion or mistake in the minds of consumers since they differ sharply in appearance and meaning. Visually, the MISS NUDE INTERNATIONAL mark is merely a line of text which identifies the event as nude.

The MISS G-STRING INTERNATIONAL mark is distinctly identified as, "The colors white, yellow gold, pink and black claimed as a feature of the mark, which consists of the stylized wording 'MISS G-STRING INTERNATIONAL' with the wording 'G-STRING' in yellow gold, the word 'MISS' in white is above the word is above the word 'G-STRING' and the word 'INTERNATIONAL' in white below 'G-STRING' all of the wording is outlined in black and are superimposed on a woman's pink undergarment," which identifies the event as NOT nude.

Scores of trademarks begin with "Miss" and end in "International". For example, OPPOSER purports to be the lawful owner of U.S. Registration No. 2047202 for the MISS NUDE WORLD INTERNATIONAL mark. (Exhibit F).

OPPOSER'S claims that the use of the MISS G-STRING INTERNATIONAL mark will be thought by the public to be derived from the same source as OPPOSER. This is simply not even remotely logical. By way of example, OPPOSER'S claim is as unsubstantiated as if OPPOSER were to claim that the MISS HAWAIIAN TROPIC INTERNATIONAL mark creates

confusion by the public as having been derived from some plausibly conceivable relationship with the MISS NUDE INTERNATIONAL mark. The simplicity of this statement is the distinction between nude and clothed. OPPOSER admits that the contestants in the MISS NUDE INTERNATIONAL beauty contests appear on stage nude. (Exhibits G, H, and I).

Conversely, APPLICANT attests that the contestants in the MISS G-STRING INTERNATIONAL beauty contests always appear on stage clothed. (Exhibit J). A common sense approach is that the social media site Facebook permits members to publish photographs of women attired in a woman's g-string undergarment but strictly prohibits its member from publishing women appearing nude. This is but one example of this culturally critical distinction.

APPLICANT further demonstrates that the trademarks are not confusingly similar by contrasting the factual differences between the contestants and the general public. On June 18, 2013, Attorney Patricia Hatry, a partner at Davis & Gilbert LLP representing MISS WORLD LIMITED in TTAB Opposition 91206024 deposed Gracinda Bento Cardoso, the Managing Member of OPPOSER. In the deposition, she admits, "I run beauty pageants for strippers." OPPOSER further admits that her pageants are, "instead of being for the regular public, it's for the adult business." (See TTAB 91206024, Filing: 17, Page 6, Lines 15-17).

OPPOSER thus admits that its contests are not for the general public. OPPOSER'S admissions clearly differentiate the critical characteristics of the contestants. OPPOSER'S contestants are "strippers" that must have attained a specific age to work in an adult club whose customers have to provide identification that show, generally, they are at least twenty-one years of age to perform or even gain access to the facilities where the performances are to occur. These events are clearly not for the general public.

Conversely, APPLICANT'S contestants have no age restrictions for its contestants and its customers likewise have no minimum age requirements to attend its beauty pageants at venues such as the Coca-Cola Pavilion at the world's largest Harley-Davidson dealer, Bruce Rossmeyer's Daytona Harley-Davidson at Destination Daytona. These events are clearly designed for viewing and "consumption" by the general public. (Exhibit K).

To determine whether there is a likelihood of confusion in this case, this Board must make, "an analysis of all the probative facts in evidence that are relevant to the factors *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973)." *The Board of Regents, The University of Texas System v. Southern Illinois Miners, LLC*, 2014 WL 1246734, 110 U.S.P.Q.2d 1182 (Trademark Tr. & App. Bd., 2014). Accordingly, the "opposer must establish that there is a likelihood of confusion by a preponderance of the evidence." *Southern Illinois Miners* at 4.

In comparing the marks, the Board should, "consider and compare the appearance, sound, connotation and commercial impression of the marks in their entireties." *Southern Illinois Miners* at 4. "The proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression' such that persons who encounter the marks would be likely to assume a connection between the parties." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQD2d 1713, 1721 (Fed. Cir. 2012).

Finally, the strongest point that the trademarks are not confusingly similar is the simple fact that both OPPOSER and APPLICANT have each conducted their respective "pageants" (which is a strained description for either disparate event), which "beauty contests" have occurred harmoniously for over four (4) years without a single conflict of any nature that can be cited by Opposer.

In this action, the Opposer has not been able to establish that there is a likelihood of confusion by a preponderance of the evidence. It simply can not be done. Some of the factors this Board should consider are: “(1) the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression. (2) the similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use (3) the nature and extent of any actual confusion (4) the length of time during and conditions under which there has been concurrent use without evidence of actual confusion (5) the extent of potential confusion, i.e., whether de minimis or substantial and (6) any other established fact probative of the effect of use.” *Du Pont de Nemours* at 1361. As shown above, these factors support the Applicant’s position that the marks are not confusingly similar. There is no similarity in appearance, sound, connotation and commercial impression. Indeed, the simple contrast between “nude” and “not nude” can establish this distinction, as do the facts that there has never been any “actual confusion” while the very different types of presentations have been presented and the programs have run without confusion for over 4 years.

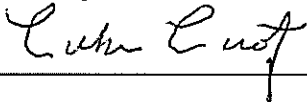
Indeed, the basic “legal” requirements for the presentation of “nude” performances and those that are not nude (i.e., zoning, licensing, minimum age requirements, etc.) serve as an inescapable factor to delineate between the different forms of presented by the Applicant and the Opposer. This legal fact alone should suffice to support the issuance of a summary judgment in favor of the Applicant.

#### IV. CONCLUSION

Applicant, Miss G-String International, LLC, is entitled to summary judgment on the Oppositions filed by Opposers, The Worlds Pageants, LLC, and Camilla Productions, Ltd.

(collectively, the "Opposers"), because, as a matter of law and fact, the Opposers simply do not have standing to oppose the registration of the marks in question. Even if that were not the case, there is absolutely no likelihood of confusion between Applicant's marks and Opposer's cited marks, or a potential for dilution by tarnishment or blurring. Applicant's motion for summary judgment is meritorious and justifies an Order from the Trademark Trial and Appeal Board entering judgment against Opposers, dismissing the notices of Opposition dated, June 6, 2011, (the "Notice of Opposition") and approving Applicant's marks filed under Serial No. 77/753,000 ("Applicant's Application") for registration.

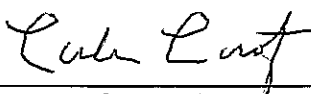
Respectfully Submitted:

By  Dated: May 20, 2014

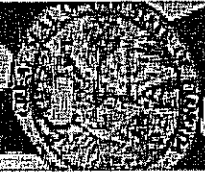
Luke Lirot, Esquire  
Florida Bar Number 714836  
LUKE CHARLES LIROT, P.A.  
2240 Belleair Road, Suite 190  
Clearwater, Florida 33764  
Telephone: (727) 536-2100  
Facsimile: (727) 536-2110  
*Attorney for the Applicant*

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Applicant's Motion for Summary Judgment and Supporting Memorandum of Law has been served on Thomas T. Aquilla, Esq., as domestic representative of The Worlds Pageants, LLC, and Camilla Productions, Ltd., by mailing said copy on May 20, 2014, via First Class Mail, postage prepaid to: Thomas T. Aquilla, Esq., 221 Coe Hill Road, Center Harbor, New Hampshire 03226.

  
Attorney for Applicant  
Signed May 20, 2014

# FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS

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## Detail by Entity Name

### Florida Profit Corporation

R & D PROMOTIONS, INC.

### Filing Information

Document Number	P00000112628
FEI/EIN Number	651070494
Date Filed	12/04/2000
State	FL
Status	INACTIVE
Last Event	ADMIN DISSOLUTION FOR ANNUAL REPORT
Event Date Filed	09/16/2005
Event Effective Date	NONE

### Principal Address

1473 HEATHER WAY  
KISSIMMEE, FL 34744

Changed: 10/01/2004

### Mailing Address

1473 HEATHER WAY  
KISSIMMEE, FL 34744

Changed: 10/01/2004

### Registered Agent Name & Address

CARDOSO, GRACINDA  
1473 HEATHER WAY  
KISSIMMEE, FL 34744

Name Changed: 10/01/2004

Address Changed: 10/01/2004

### Officer/Director Detail

#### **Name & Address**

Exhibit "A"

Gracinda Bento Cardoso  
1473 Heather Way  
Kissimmee, Florida 34744  
SS# 016-72-6554 DL# C632-282-73-529-0  
954-818-6465  
407-846-7735

Business address: 1005 Mabbot Street  
Kissimmee, FL 34741

This contract is entered between Gracinda Cardoso as an individual and R&D Promotions as a corporation where either or both are liable for this contract. Brian Bell personally on January 22/2004 issues this is a loan for the amount of \$20,000.00 (Twenty thousand dollars) in which the funds will be received and paid via check. The loan will be split in three payments, first payment \$ 6,680.00 (six thousand six hundred and eighty dollars) plus \$600.00 (six hundred) for loan assistance making a total of \$7,280.00 (seven thousand two hundred and eighty dollars.) to be paid on the 20 of April of 2004, next payment to be due on the 20 of May of 2004, \$ 6,660.00 (six thousand six hundred and sixty dollars) plus \$600.00 (six hundred) for loan assistance making a total of \$7,260.00 ( seven thousand two hundred and sixty dollars), next payment due on the 20 of June of 2004 \$ 6,660.00( six thousand six hundred and sixty dollars) plus \$600.00 (six hundred) for loan assistance making a total of \$7,260.00 ( seven thousand two hundred and sixty dollars).

This loan is secured by personal assets of Gracinda Cardoso and corporation assets of R & D Promotions, Inc. and it's holdings.

In any litigation between the parties arising out of this agreement or the breach thereof, the prevailing party shall recover reasonable attorney's fees and costs (including appellate fees and costs). Any legal/court action involving this agreement shall be brought and settled in the courts of Pinellas County, Florida, USA.

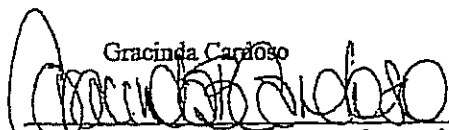
Bank account information  
Bank of America  
Gracinda Bento Cardoso  
4300 West 13<sup>th</sup> Street  
St. Cloud, FL 34769  
407- 892 2456

Routing number 026009593

Account number 003439039940

Bank account information for  
receipt of payments:  
SunTrust Bank  
Brian Bell  
300 1<sup>st</sup> Avenue South  
St. Petersburg, FL. 33701  
727-892-3955  
Routing number: 061000104

Account number: 1000013206338

Gracinda Cardoso  
  
Borrower/President/owner R&D Promotions, Inc

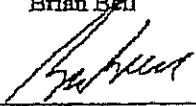
Brian Bell  
  
Provider of loan



Exhibit "B"

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

BRIAN BELL,

Plaintiff,

vs.

R&D PROMOTIONS, INC., a  
Florida corporation and  
GRACINDA B. CARDOSO,

Defendants.

UCN: 522004CA007512XXCICI  
REF NO.: 04-7512-CI-11

FILED  
St. Petersburg Branch  
2005 APR -1 PM 2:19  
KERN CLERK  
CLERK OF COURT

**FINAL JUDGMENT ON DEFAULT**

THIS CAUSE coming on to be heard upon Plaintiff's Motion for Enforcement of Settlement Agreement and Entry of Judgment on Default and this Court having examined the pleadings and affidavits in this cause and being otherwise fully advised in the premises, and the Court finds in favor of the Plaintiff and against the Defendants, and finds that the Plaintiff is entitled to recovery of damages and prejudgment interest, together with attorney's fees and court costs, and that a reasonable number of hours expended by the Plaintiff's attorneys in enforcement of stipulation and application for judgment under the Settlement Agreement is 2.0 hours and that a reasonable hourly rate for Plaintiff's attorneys is \$200.00 per hour for Ronald W. Gregory, II, and that, therefore, a reasonable attorney's fee for Plaintiff's attorneys herein is \$400.00; it is thereupon

ORDERED AND ADJUDGED, as follows:

1. That Plaintiff, BRIAN BELL, whose address is 696 First Avenue North, Suite 400, St. Petersburg, FL 33701, shall recover of and from Defendants, R&D PROMOTIONS, INC. and GRACINDA B. CARDOSO, the following sums:

Exhibit "C"

Principal Indebtedness under Settlement Agreement	\$ 24,485.34
Interest January 7, through March 23, 2005	
(75 Days at 18% under Settlement Agreement)	\$ 905.62
Attorney's Fees	\$ 400.00

TOTAL	<u>\$ 25,790.96</u>
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all of which sums shall bear interest at the rate of 7% per annum until the judgment is paid, as the rate set by the Florida Comptroller pursuant to § 55.03, FOR ALL OF WHICH SUMS LET EXECUTION ISSUE.

2. IT IS FURTHER ORDERED AND ADJUDGED that the judgment debtor(s) shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the judgment creditor's attorney, or the judgment creditor if the judgment creditor is not represented by an attorney, within 45 days from the date Plaintiff serves the Fact Information Sheet, unless the final judgment is satisfied or post-judgment discovery is stayed.

3. Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment debtor(s) to complete form 1.977, including all required attachments, and serve it on the judgment creditor's attorney or the judgment creditor if the judgment creditor is not represented by an attorney.

DONE AND ORDERED in Chambers, at St. Petersburg, Pinellas County, Florida, this 1 day of Aug 2005.

*[Signature]*  
The Honorable Walt Logan  
Judge of the Circuit Court  
Pinellas County, Florida

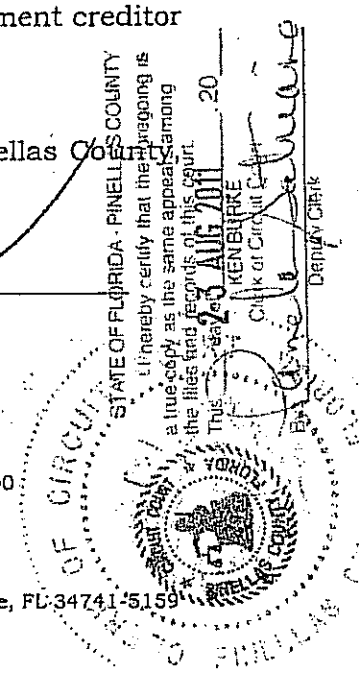
**Copies Furnished To:**

Ronald W. Gregory, II, Esq.  
Attorney for Plaintiff  
P. O. Box 1954  
St. Petersburg, FL 33731-1954

R&D PROMOTIONS, INC. c/o Gracinda B. Cardoso  
1005 Mabbette Street, Kissimmee, FL 34741-5159  
Defendant/ Judgment Debtor

Brian Bell  
696 First Avenue North, Suite 400  
St. Petersburg, FL 33701  
Plaintiff/Judgment Creditor

GRACINDA B. CARDOSO  
1005 Mabbette Street, Kissimmee, FL 34741-5159  
Defendant/ Judgment Debtor



# AQUILLA PATENTS & MARKS PLLC

221 COE HILL ROAD, CENTER HARBOR, NEW HAMPSHIRE 03226 UNITED STATES OF AMERICA

THOMAS TRACY AQUILLA, PHD, JD  
U.S. PATENT ATTORNEY REG. NO. 43473  
NEW HAMPSHIRE BAR ID. NO. 18693  
NEW YORK ATTORNEY REG. NO. 3892627

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TELEPHONE: (603) 253-9474  
FACSIMILE: (603) 253-9476  
E-MAIL: [INFO@AQUILLAPATENTS.COM](mailto:INFO@AQUILLAPATENTS.COM)

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May 13, 2009

**BY E-MAIL and U.S. REGISTERED MAIL**

J. Benton Stewart  
Stewart Law PLLC  
730 South Sterling Avenue, Suite 304  
Tampa, FL 33609

Re: "MISS G-STRING INTERNATIONAL"  
Our Docket No.: RDP-00701L

Dear Mr. Stewart:

My firm represents R&D Promotions, Inc. in connection with its intellectual property legal matters. R&D Promotions, Inc. ("R&D") is the owner of various trade- and service marks, including U.S. Trademark Registration No. 2,037,202 for the mark "MISS NUDE INTERNATIONAL" and numerous other related marks ("the Marks"). Our clients, R&D and its predecessors-in-interest, have used the Marks world-wide and in interstate commerce for many years in connection with their well-known pageants and competitions in the adult entertainment industry. Our client's Mark "MISS NUDE INTERNATIONAL" has been registered since 1997 and is incontestable under Section 15 of the Lanham Act.

Your client's use of the name "MISS G-STRING INTERNATIONAL" in connection with adult entertainment events has come to our attention. More particularly, it has come to our attention that your clients are planning to hold an event entitled "MISS G-STRING INTERNATIONAL" at Paradise Lakes Resort on Thursday, October 1 to Saturday, October 3, 2009.

This letter is a demand to cease all use of this name and any variations thereof.

R&D objects to the use of any marks, titles or any similar designations, which infringe upon its marks, particularly those that include the word "MISS" together with the word "INTERNATIONAL" for pageants or competitions in the adult entertainment industry. R&D also reserves the right to object to any Infringing Mark that does not make use of that particular combination of words. In this regard, please note that our client holds extensive trademark rights in hundreds of related marks.

Exhibit "p"

We note that the name your clients are using is very similar and, in fact, wholly subsumes R&D's registered mark. We are concerned about the great potential for confusion between the marks. Because your clients are using the name for adult entertainment services, your clients' name is likely to induce mistake or deception in people familiar with our client's marks.

Any use of, or intention to use, the mark, name or title "MISS G-STRING INTERNATIONAL", or any other designation similar to any of our client's Marks (collectively "Infringing Marks") for adult entertainment services constitutes trademark infringement of our clients marks, in violation of Section 32 of the Lanham Act. Furthermore, any such use of the Marks constitutes unfair competition and falsely suggests, in violation of Section 43(a) of the Lanham Act, that our client has sponsored, authorized or is otherwise connected with your client's company and/or its services.

Violations of these laws entitle our client to injunctive relief, monetary recovery of your client's profits and of our client's actual losses, and punitive damages, as well as recovery of attorney's fees and court costs. In any action taken on behalf of our client, we would seek such remedies. You should be aware that that in numerous legal actions brought to enforce our client's trademark rights, we have successfully opposed improper use of its Marks.

R&D therefore demands that your clients immediately (i) cease and desist any and all use of the Infringing Marks, including but not limited to the name or title "MISS G-STRING INTERNATIONAL" and any other similar designations; and (ii) agree to refrain from any future use of the Infringing Marks.

We further demand that you forward to us immediately written assurances that your clients have complied with the foregoing and will not illegally interfere with our client's business. If you fail to comply with these demands, then our client intends to take all actions deemed necessary to protect its rights.

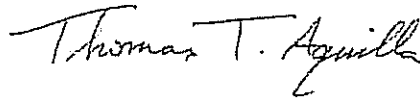
In addition, we suggest that you notify all others unknown to us, who may be participating in your client's use of the Infringing Marks, such as the owners of the venues for and the sponsors of any competitions involving use of the Marks, of the matters set forth herein. They should be put on notice that they risk liability as contributory infringers, if they continue to use or join with your clients in such use.

I write this letter in the hopes of resolving this matter amicably and through cooperative means, and urge you to persuade your clients to select a different name for the scheduled event. There are many names available that would not infringe our client's registered trademarks, such as "Miss Paradise Lakes" or some variation thereof. However, your prompt response and compliance are required, if legal proceedings are to be avoided. Unless we hear from you shortly, we will assume that further action is necessary.

RDP-00701L  
May 13, 2009  
Page 3 of 3

Please contact me at your earliest opportunity to discuss this matter.

Sincerely,

A handwritten signature in black ink that reads "Thomas T. Aquilla". The signature is written in a cursive style with a large, stylized 'T' at the beginning.

Thomas T. Aquilla, Esq.

TTA/ema

Enclosure: Certificate of Registration No. 2,037,202; Abstract of Title

cc: Paradise Lakes Resort; R&D Promotions, Inc.; The Worlds Pageants, LLC

Thomas Tracy Aquilla  
221 Coe Hill Road  
Center Harbor, NH 03226

October 6, 2011

**BY U.S. FIRST CLASS MAIL**

Mr. Thomas V. Trevethick, Esq.  
Attorney Discipline Office  
4 Chenell Drive, Suite 102  
Concord, NH 03301

**Re: Grievance received from William Eadie**

Dear Mr. Trevethick:

I am writing in response to your second letter dated September 15, 2011. I am certainly willing to cooperate with the Attorney Discipline Office and I hereby address the concerns raised in your letter. The statements made in my letter to Mr. Eadie dated May 13, 2009 are true and correct and these issues currently are being litigated before the Trademark Trial and Appeal Board. Mr. Eadie is using this grievance in the Attorney Discipline Office as a litigation tactic.

1. My client is the owner of an extensive trademark portfolio that includes hundreds of titles for beauty pageants, several of which have been registered on the Principal Register of the USPTO for many years. Trademark rights are created and maintained solely through actual use of the mark in commerce, not by registration. There is no legal requirement that a trademark be registered in the USPTO and most of my client's trademarks are not registered.
2. Included in my client's portfolio is the trademark MISS NUDE INTERNATIONAL, which is registered and incontestable. The Worlds Pageants, LLC is the present owner of this registered trademark by valid assignment. There is no requirement in the Lanham Act that an assignment of a registered trademark be recorded in the USPTO. Nevertheless, the complete chain of title has been recorded in the USPTO and filed with the TTAB in the pending litigation. These documents are now of public record

and the current Abstract of Title is available on-line at:

<http://assignments.uspto.gov/assignments/q?db=tm&sno=75079154>.

Copies of the actual assignment documents, as well as a copy of the TTAB Order acknowledging the assignment, also are available on-line at:

<http://ttabvue.uspto.gov/ttabvue/v?pno=91200183&pty=OPP&eno=6>.

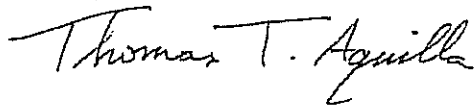
3. My client and its predecessors-in-interest have not abandoned the registered trademark MISS NUDE INTERNATIONAL. Indeed, the USPTO records (which Mr. Eadie provided previously) show that the mark currently is registered and incontestable. There is no rule of law to support Mr. Eadie's contention that the registered trademark MISS NUDE INTERNATIONAL is invalid based on a theory of "constructive abandonment". Like other forms of property, trademark rights persist, even after the owner dies (*i.e.*, individual) or ceases to exist as a legal entity (*i.e.*, corporate dissolution). Trademark rights can only be abandoned by an express abandonment or by non-use. The current status of the registered mark is available on-line at:

<http://tarr.uspto.gov/tarr?regser=registration&entry=2037202&action=Request+Status>.

I maintain that Mr. Eadie knew these facts at least by the time he received my letter of May 13, 2009, and most certainly well before he filed this grievance with the Attorney Discipline Office. Mr. Eadie has no legal grounds for attacking the validity of my client's registered trademark and no legal grounds for defending the pending opposition in the TTAB. He has therefore resorted to *ad hominem* attack on the attorney of record for the adverse party and is using this grievance in the Attorney Discipline Office as an improper litigation tactic. I again respectfully request that the Attorney Discipline Office dismiss Mr. Eadie's grievance as frivolous.

However, please contact me at your convenience, if I can provide any further information that will assist in closing this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas T. Aquilla". The signature is written in a cursive, flowing style with a large, stylized initial 'T'.

Thomas T. Aquilla



United States Patent and Trademark Office

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Current Search: (miss)(MN) and (international)(MN) docs: 73 doc: 120

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	00300972		MISS SHOWGIRL INTERNATIONAL	TARR	LIVE
2	00400343		MISS INTERNATIONAL TOURISM	TARR	LIVE
3	05225435		MISS TEEN INTERNATIONAL COMPETITION	TARR	LIVE
4	05331820		MR & MISS LATIN INTERNATIONAL BEAUTY PAGEANT	TARR	LIVE
5	05074110		MISS BEAUTIFUL INTERNATIONAL PAGEANT	TARR	DEAD
6	05084504		A NIGHTMARE TO REMEMBER INTERNATIONAL HORROR FILM FESTIVAL, HOSTED BY HORROR HOST MISS MISERY WWW.ANIGHTMARETOREMEMBER.COM	TARR	DEAD
7	05206405		MISS GAMING INTERNATIONAL	TARR	LIVE
8	06087730	3509160	MISS TRAVEL & LEISURE INTERNATIONAL	TARR	LIVE
9	08082676	3504230	MISS ECO-FRIENDLY INTERNATIONAL	TARR	LIVE
10	08045332		MISS TOURISM QUEEN INTERNATIONAL PAGEANT CHINA	TARR	DEAD
11	79088574		MISS YOUNG INTERNATIONAL	TARR	LIVE
12	75048873		MISS YOUNG INTERNATIONAL	TARR	DEAD
13	70015473		MISS&MISTER FOOTBALL INTERNATIONAL	TARR	DEAD
14	70020030	3503210	MISS INTERNATIONAL QUEEN	TARR	LIVE
15	70743052		MISS INTERNATIONAL	TARR	DEAD
16	70740263		MISS FRIENDSHIP INTERNATIONAL	TARR	DEAD
17	78740238		MISS GLOBE INTERNATIONAL	TARR	DEAD
18	78553301	3270507	MISS UNITY INTERNATIONAL	TARR	LIVE
19	78192203	2042018	MISS AFRICA INTERNATIONAL	TARR	LIVE
20	78428403	3010052	MISS GAY INTERNATIONAL	TARR	LIVE
21	78444086	3055115	MISS TAXI INTERNATIONAL	TARR	LIVE

Exhibit F

22	78304301	3190874	MISS GLAMOUR INTERNATIONAL	TARR	LIVE
23	78324130		MISS SENEGAL INTERNATIONAL	TARR	DEAD
24	78324496		MISS CAMEROON INTERNATIONAL	TARR	DEAD
25	78324359		MISS NIGERIA INTERNATIONAL	TARR	DEAD
26	70217477		MISS NUDE BLACK INTERNATIONAL	TARR	DEAD
27	78301700		MISS ASIA INTERNATIONAL	TARR	DEAD
28	70120000		MISS BLACK INTERNATIONAL	TARR	DEAD
29	78026240		MISS GALAXY INTERNATIONAL	TARR	DEAD
30	70023046		MISS INTERNATIONAL U.S.	TARR	DEAD
31	77753000		MISS G-STRONG INTERNATIONAL	TARR	LIVE
32	77000248	3763080	MISS VACATION INTERNATIONAL	TARR	LIVE
33	77767500		MISS ASIA INTERNATIONAL	TARR	LIVE
34	77878044	3000737	MISS FRIENDSHIP INTERNATIONAL	TARR	LIVE
35	77616534	3760664	MISS GLOBE INTERNATIONAL	TARR	LIVE
36	77389871		MISS UNITED STATES INTERNATIONAL	TARR	DEAD
37	77332140		MISS TAHITI TROPIC INTERNATIONAL	TARR	DEAD
38	77196064		MISS LATINA INTERNATIONAL SAL SCORZA @ 2002	TARR	DEAD
39	77090470		MISS BLACK UNIVERSE INTERNATIONAL PAGEANT	TARR	DEAD
40	77041077		MISS AFRICA UNITY INTERNATIONAL MISS AFRICA UNITY INTERNATIONAL	TARR	DEAD
41	77034483		MISS NIGERIA INTERNATIONAL	TARR	DEAD
42	76395712	2929240	MISS TEEN INTERNATIONAL COMPETITION	TARR	LIVE
43	78072237	2872010	MISS GAY HISPANIC/LATINA INTERNATIONAL	TARR	DEAD
44	78888905	3403995	TEEN, MISS, MS. BLACK INTERNATIONAL PAGEANT	TARR	LIVE
45	70007000		MISS DEAF INTERNATIONAL	TARR	DEAD
46	70041017	3310089	MISS INTERNATIONAL	TARR	LIVE
47	76048186		MISS INTERNATIONAL	TARR	DEAD
48	76548104		MISS INTERNATIONAL PAGEANT	TARR	DEAD
49	76549183		MISS INTERNATIONAL COMPETITION	TARR	DEAD
50	76432910	2790548	MISS HAWAIIAN TROPIC INTERNATIONAL	TARR	DEAD
51	76422473	2000063	MR. AND MISS GLOBAL DANCE INTERNATIONAL	TARR	DEAD
52	70300715	2044317	MISS TEEN INTERNATIONAL	TARR	LIVE
53	76360714	2013531	MISS TEEN INTERNATIONAL PAGEANT	TARR	LIVE
54	76316121	2851323	MISS ANTILLES INTERNATIONAL	TARR	LIVE
55	75800522		MISS INTERNATIONAL USA	TARR	DEAD
56	75480088		MISS AIRLINES INTERNATIONAL	TARR	DEAD
57	75484713	2202080	MISS NUDE WORLD INTERNATIONAL	TARR	DEAD
58	76079155	2040473	MISS CASINO BEAUTY INTERNATIONAL	TARR	DEAD
59	75079154	2037202	MISS NUDE INTERNATIONAL	TARR	LIVE
60	74134079		MISS NORTH AMERICA INTERNATIONAL	TARR	DEAD
61	74134078		MISS USA INTERNATIONAL	TARR	DEAD

63	73185102	1080647	MISS BEAUTY INTERNATIONAL	TARR	DEAD
64	73618072	1455002	YOUNG AMERICAN MISS INTERNATIONAL	TARR	DEAD
65	73553293		MISS CARIBBEAN QUEEN BEAUTY PAGEANT INTERNATIONAL	TARR	DEAD
66	73458833	1310834	MISS MANNEQUIN INTERNATIONAL PAGEANT	TARR	DEAD
67	73440040	1318104	INTERNATIONAL PAGEANT MR MISS MS	TARR	DEAD
68	73370073	1360225	MISS BLACK INTERNATIONAL BEAUTY PAGEANT, INC.	TARR	DEAD
69	73364000	1244834	MISS GALAXY INTERNATIONAL PAGEANT LIBERATED AND BEAUTIFUL	TARR	DEAD
70	73193209	1085348	MISS FLAIR INTERNATIONAL	TARR	DEAD
71	73080657	1081334	MISS INTERNATIONAL BEAUTY	TARR	LIVE
72	73080001	1020059	MISS TALL INTERNATIONAL	TARR	DEAD
73	72142820	0789371	MISS HOLLYWOOD INTERNATIONAL	TARR	DEAD
74			MISS INTERNATIONAL	TARR	DEAD

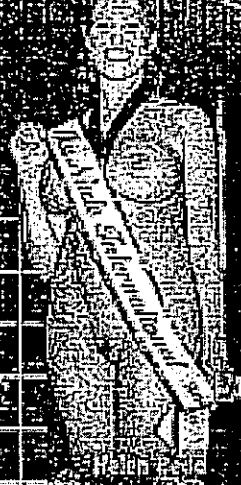
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# Miss Nude International Pageant 2002



Gloria Fiere



Heidi Faria



Lucy L'Vette



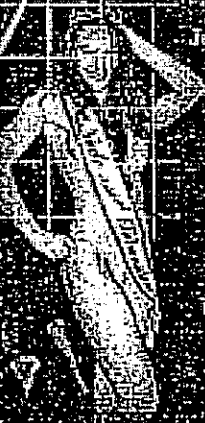
Jessica & Miranda



XXXStacy Blade



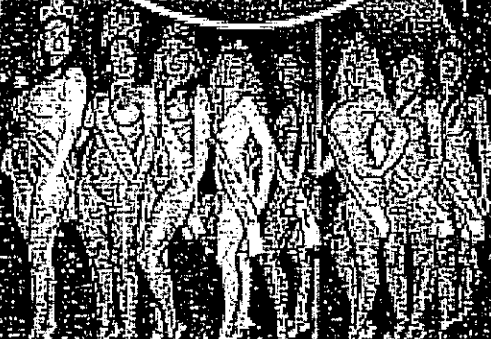
Jessica Justice



Kelly DeVine



Shantal Davis



RICHARD HENT  
PHOTOS AND TEXT

## Mini Titles

Most Beautiful Titant: Jessica Justice.  
Best Breasts: Lucy L'Vette.  
Hottest Buns: XXXStacy Blade.  
Hottest Legs: Lucy L'Vette.  
Hardest Body: XXXStacy Blade.  
Best Dancer: Jessica Justice.  
Hottest Gynecomast: Shantal Davis.  
Pole Climbing: Kelly DeVine.  
Best Air Show: Heidi Faria.

## Main Titles

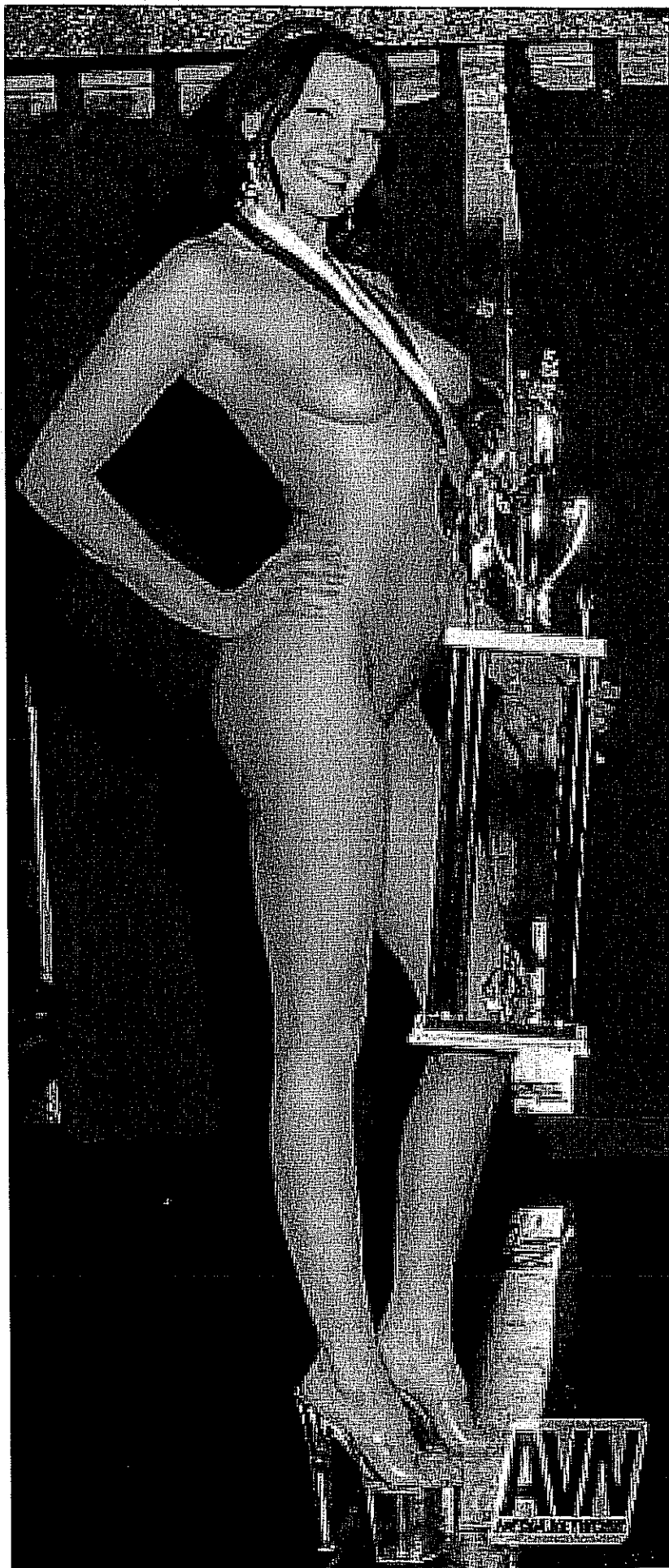
Miss Elegance: Kelly DeVine.  
Most Original Show: Lucy L'Vette.  
Best Show: XXXStacy Blade.  
Audience Favorite: Helen Beed.  
Hottest Stage Personality: Jessica Justice.  
Most Sensuous Woman: Lucy L'Vette.  
Miss Congeniality: Shantal Davis.  
Hottest Newcomer: Kelly DeVine.

## Main Titles

Miss Nude International 2002:  
Kelly DeVine

## Miss Nude Blonds International

Shantal Davis  
2nd Runner Up Miss Nude Petite International:  
Helen Beed  
1st Runner Up Miss Nude Petite International:  
XXXStacy Blade  
Miss Nude Petite International:  
Gloria Fiere  
Miss Nude Brunette World:  
Lucy L'Vette  
Miss Nude International 2002:  
Kelly DeVine



Miss Nude International 2011

Exhibit H



Exhibit I

Miss Nude International 2011

Living and loving the Harley-Davidson experience

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An Easyriders Magazine  
JUNE 2013 • Number 153  
Rated R

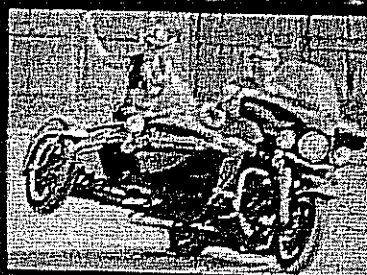


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B.A.D. RIDE 15

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KICKIN' BUTT  
ON DIABETES

Exhibit

J

# Jägermeister

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FRIDAY • OCTOBER 19<sup>TH</sup>

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Sexy Costume Contest

Hottest Lingerie  
Contest

Christy Hemme

Tali DeMar

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